

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X
DARRELL WILLIAMS

Plaintiff,

ORDER

- against -

22 Civ. 9627 (NRB)

MONTEFIORE MEDICAL CENTER,
CORP., doing business as
Montefiore Medical
Center,

Defendant.

-----X
NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

WHEREAS, in this action, plaintiff alleges that Montefiore Medical Center ("defendant") discriminated against him based on his disability and religion when it terminated his employment because he refused to take the COVID-19 vaccine as mandated by the Department of Health. ECF No. 4 ¶ 2;

WHEREAS, plaintiff alleges that he "was left in a mental and emotional turmoil" after his employment was terminated and consequently seeks, among other things, compensatory and punitive damages from defendant. Id. ¶ 30;

WHEREAS, defendant has repeatedly requested Mr. Mark Insetta, a therapist who treated plaintiff during the relevant time period, to produce plaintiff's medical records. See, e.g., ECF No. 24 at 2 (summarizing the numerous requests made to Mr. Insetta);

WHEREAS, Mr. Insetta has stated that he will "only release notes if so ordered by the Court." ECF No. 24-3;

WHEREAS, defendant has moved for an order compelling Mr. Insetta to produce plaintiff's medical records. ECF No. 27;

WHEREAS, in response to that motion, the Court, on February 27, 2024, found that plaintiff has directly put his mental and emotional state at issue, and thus gave plaintiff seven (7) days to consent to Mr. Insetta's producing plaintiff's medical records or otherwise be precluded from seeking damages for any emotional distress. ECF No. 37;


WHEREAS, more than seven days have passed from the issuance of that order without any response from plaintiff; it is hereby

ORDERED that the Court will construe plaintiff's silence as a decision to "withdraw or formally abandon all claims for emotional distress," except for garden-variety emotional distress, "in order to avoid forfeiting his psychotherapist-patient privilege." In re Sims, 534 F.3d 117, 134 (2d Cir. 2008); it is further

ORDERED that the parties continue with discovery, as limited as it may now be, and provide the Court with a status update within sixty (60) days from the issuance of this Order; and it is further

ORDERED that the Clerk of Court terminate the motion pending at ECF No. 24.

Dated: New York, New York
March 7, 2024

A handwritten signature in blue ink, reading "Naomi Reice Buchwald", is positioned above a horizontal line.

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE